Written evidence submitted on behalf of Brexpats – Hear our Voice and RIFT (Remain in France Together) (GRB 25)

Executive summary

- The purpose of the ‘Great Repeal Bill’ is to convert EU law into UK law from the day the UK leaves the EU.

- The white paper shows that the government is about to grab immense powers to make new laws without full parliamentary scrutiny. This is another attempt to subvert democracy.

- The government wants to award itself the power to change the law under a vague set of circumstances without full parliamentary process. Using these powers, the UK would effectively be governed by the executive, not parliament, avoiding due democratic process.

- An act of parliament allows for extensive public discussion and essential parliamentary scrutiny. An act of the executive, on the other hand, is subject to only limited public or parliamentary involvement. There is far less time for discussion, and no prospect of tabling amendments in parliament.

- These are not merely technical changes, as the government would like us to believe, they are material changes that could be used to make significant policy changes. The government’s own example of a “technical amendment”, is the removal of consultations required before oil companies are permitted to operate in protected habitats!

- These powers could be used to define the detail of future policies on agriculture, fisheries, trade with non-EU countries or extradition to the EU. **Such extensive changes must have full parliamentary scrutiny and public discussion.**

Henry VIII powers

1. The referendum was fought on the basis that the UK would “take back control” for the UK’s parliament and devolved legislatures. The white paper suggests that for many issues, control will actually be exercised by the government, rather than parliament. **Parliament must ensure due democratic process takes place.**

2. From Theresa May’s Foreword to the White Paper:

   “It will then be for democratically elected representatives in the UK to decide on any changes to that law, after full scrutiny and proper debate”.

3. However, the white paper on the bill contains no legal threshold for the use of Henry VIII powers, an unacceptable situation.
4. Ministers must not be given the means to delete laws according to their whims. It is unacceptable for ministers to be accountable only to themselves.

5. If this were to happen we could expect a bonfire of regulations.

6. The Henry VIII clause is not the only exceptional power proposed for the bill. The white paper promises to empower the government to implement parts of the UK’s exit agreement “without delay” in a “separate process” apparently in advance of parliamentary approval. The paper offers no detail about which parts of the agreement will be implemented before parliament votes. **It appears that this exceptional power will be available entirely at the discretion of ministers.** The government has already contrived to deny parliament a meaningful vote on the exit agreement. These powers will reduce parliament’s role to rubber-stamping laws that have already taken effect.

7. It talks of balancing the need for scrutiny against the “speed of this process”. If the government delays its decisions until the last minute, parliament will be faced with a choice between waving proposals through, or inviting legal chaos if the UK leaves the EU without the appropriate changes in place.

8. Do the copyright conditions on the aquis communitaire permit the UK government to create a separate derived work?

**What must happen**

9. The government must disclose the content of its Great Repeal Bill in detail, not a ‘skeleton bill’, and this must be done at the earliest stage, to ensure enough time i.e. a minimum of six months for consultation and six months for debate.

10. The transfer of EU law into UK law must be transparent, clear and accountable, and delegated power to the government must be clearly and precisely defined.

11. Sunset clauses should be used to ensure that the delegated legislative powers do not persist indefinitely.

12. The government must guarantee, explicitly on the face of the Bill, provisions to prevent the Bill impacting human rights, equalities, or environmental laws and standards, and to prohibit the use of delegated legislation to change or undermine them. **Failure to bring in protective measures could have implications that would last for generations.**

13. We must ensure that this government does not give itself power to legislate on a massive scale without the need to consult Parliament.

**Concerns**
14. David Davis, has said that EU norms will be transferred into UK law “wherever practical” before Brexit day. This implies that, in some cases, it will not be practical to transfer a particular norm into UK law and it will therefore be scrapped.

15. Ministers or officials must not have the power to dispense with inconvenient EU norms during the transfer process.

16. **Henry VIII powers must be avoided, as these give officials the power of parliament, yet subjects them to none of the same democratic scrutiny and is unacceptable.**

17. If the Great Repeal Bill grants the government significant powers, it is not clear how long they will last. They could last over ten years and this is unacceptable.

18. Unless a specific deadline is set for the expiry of these powers, there is a risk that there could be a permanent shift in legislative decision-making away from the elected legislature, towards the executive.

19. By delaying the introduction of the Bill until well into the second year of negotiations, the government can avoid scrutiny, by coercing parliament into granting unprecedented powers without proper debate.

20. Its Henry VIII clauses would enable Theresa May to tamper unilaterally with any of the regulations that affect Britain's environmental, employment, legal and tax regimes.

21. **The Bill thus represents a unique opportunity for the government to use the power of the state to benefit itself and its supporters and is unacceptable.**

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